

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PRIME ALLIANCE BANK, INC. and
SERTANT CAPITAL, LLC,

Plaintiffs,

v.

THE GREAT LAKES TISSUE
COMPANY, TISSUE DEPOT, INC.,
and CHEBOYGAN ENERGIES &
BIOFUELS CORP.,

Defendants.

Case No. 23-10564

Honorable Laurie J. Michelson

ORDER DISMISSING COUNT IV OF AMENDED COMPLAINT [40]

On May 24, 2024, the Court granted in part Prime Alliance Bank, Inc. and Sertant Capital, LLC's motion for default judgment on their claims for fraudulent transfer (Count I), breach of contract (Count II), and claim and delivery (Count III), but denied it as to their conversion claim (Count IV). *See Prime All. Bank, Inc. v. Great Lakes Tissue Co.*, No. 23-10564, 2024 WL 2607277, at *7 (E.D. Mich. May 24, 2024) ("While Plaintiffs may plead conversion in the alternative to their breach of contract claim, a conversion claim is unavailable when, as here, there is a contract that covers the subject matter, and no distinct breach of duty is asserted.")

The Court then issued an order for Plaintiffs to "show cause in writing, whether they wish to prosecute the conversion claim and if so, explain why that claim should not be dismissed for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6)." (ECF No. 75, PageID.3095.) In their response, Plaintiffs

indicated that they no longer wish to prosecute the conversion claim and asked the Court to dismiss that count. (ECF No. 76, PageID.3098.)

Accordingly, pursuant to Plaintiffs' request, their conversion claim against Defendants (Count IV) is dismissed.

IT IS SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: June 6, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 6, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager, in the absence of
Erica Parkin
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